

### **REMARKS**

Applicant submits an Excess Claim Fee Payment Letter for four (4) excess total claims.

Claims 1-26 are all the claims presently pending in the application. Claims 3-22 have been amended for clarity. Claims 23-26 are new.

It is noted that the claim amendments are made only for more particularly pointing out the invention, and not for distinguishing the invention over the prior art, narrowing the claims or for any statutory requirements of patentability. Further, Applicant specifically states that no amendment to any claim herein should be construed as a disclaimer of any interest in or right to an equivalent of any element or feature of the amended claim.

Claims 1-10 are allowed. Claims 15-18 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 11-14 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Levinson et al. (U.S. Patent No. 5,223,816) in view of Kushige (U.S. Patent No. 5,327,461).

Claims 19-22 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Levinson et al. in view of Kushige, further in view of Hunzinger (U.S. Patent No. 6,678,530).

These rejections respectfully are traversed in the following discussion.

#### **I. THE CLAIMED INVENTION**

The claimed invention is directed to a transmission rate controlling method of mobile radio equipment for controlling the rate of radio data transmission between mobile radio equipment and a base station. The method includes decoding encoded data, and judging whether or not decoding has been performed in time. The transmission rate to/from a base station is controlled based on a judgment made at the judging step.

Conventionally, the resources of the radio base station are limited, and maximum efficiency cannot be achieved. Moreover, although the mobile radio equipment demands the maximum rate of data transmission, it conventionally does not have a decoding capability commensurate with the maximum transmission rate even if its radio transmission function is sufficient to receive data normally.

The present invention, however, provides a method of controlling transmission rate for the mobile radio equipment.

## II. THE PRIOR ART REJECTION

Claims 11-14 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Levinson et al. (U.S. Patent No. 5,223,816) in view of Kushige (U.S. Patent No. 5,327,461).

The prior art reference to Levinson et al. does not teach or suggest the claimed invention, (as is admitted in the Office action). Combining Levinson et al. with Kushige, as proposed in the Office action, does not remedy the recognized deficiencies of Levinson et al.

## III. THE CITED REFERENCES

### A. The Levinson et al. Reference:

Levinson et al. discloses a security system in which the position can be located of a signaling portable radio frequency transmitter. The central processing station can determine which relay station is closest to the portable transmitter. The determination is made by using the second signals received, either from one or a number of relay stations.

The Office alleges that Levinson et al. discloses a transmission rate controlling method of mobile radio rate of radio data transmission between equipment for controlling the mobile radio equipment and a base station (see figure 1, portable 12, central station 28). At odds with this allegation, the Office admits that Levinson et al. fails to teach a transmission controlling step for controlling the rate of transmission to/from a base station based on a judgment made at the judging step. Applicant respectfully submits that the two statements are discrepant, if not mutually exclusive.

Levinson et al. does not disclose or relate to radio transmission rates. The teaching in Levinson et al. alleged by the Office to meet the recited judging step has no relationship to whether or not decoding has been performed in time. Indeed, Levinson et al. teaches that the threshold detector 20b does not allow signals of insufficient strength to reach the decoder 18z. See, *inter alia*, col. 4, lines 19-23 of Levinson et al. Thus, no decoding of any kind takes place for signals that are not sufficiently strong. Levinson et al. teaches nothing to do with transmission and decoding rates.

Claims 11-14 are submitted to be patentable over the cited reference to Levinson et al.

**B. The Kushige Reference:**

Kushige discloses a voice communication apparatus in which the presence or absence of a voice signal is determined. The presence or absence of the voice signal is judged based on comparison of an accumulated amplitude value to an established threshold.

Kushige does not provide the features discussed above and missing from Levinson et al., including a judging step for judging whether or not decoding has been performed in time, and a transmission controlling step for controlling the rate of transmission to/from a base station based on a judgment made at the judging step.

Instead, Kushige judges whether a voice signal is present or absent based on an accumulated amplitude value. Kushige does not provide any method or step for judging whether or not decoding has been performed in time. Concomitantly, given that Kushige does not provide Levinson et al. the recited judging step, Kushige does not teach or suggest the recited transmission controlling step for controlling the rate of transmission to/from a base station based on the judgment made at the judging step.

Claims 11-14 are submitted to be patentable over the cited reference to Levinson et al. in view of Kushige.

**C. The Hunzinger Reference:**

Hunzinger does not cure the deficiencies of Levinson et al. and Kushige. Hunzinger has been cited to provide requesting a base station to reduce or increase data transmission rate based, respectively, on whether the data transmission rate is above or below the threshold. The disclosure allegedly provided by Hunzinger is admitted by the Office to be missing from Levinson et al. and Kushige with respect to dependent claims 19-22.

Hunzinger has not been cited against independent claims 11-14, from which claims 19-22, respectively, directly depend. Claims 11-14 are patentable over the cited prior art, as advanced above. Claims 19-22, being dependent upon claims 11-14, also are submitted to be patentable over the prior art of record.

**IV. FORMAL MATTERS AND CONCLUSION**

In view of the foregoing, Applicant submits that claims 1-26, all the claims presently pending in the application, are patentably distinct over the prior art of record and are in condition for allowance. The Examiner respectfully is requested to pass the above application to issue at the earliest possible time.

Application/Control Number: 10/698,391  
Art Unit: 2618

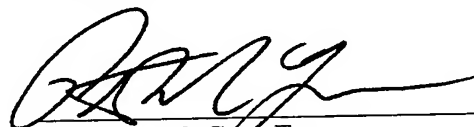
Ref. No. DP-977 US  
Docket No. MAR.092

Should the Examiner find the application to be other than in condition for allowance, the Examiner is requested to contact the undersigned at the local telephone number listed below to discuss any other changes deemed necessary in a telephonic or personal interview.

The Commissioner is hereby authorized to charge any deficiency in fees or to credit any overpayment in fees to Attorney's Deposit Account No. 50-0481.

Respectfully Submitted,

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